

## Department of Veterans Affairs

## § 13.64

(ii) Invest surplus funds as provided by Department of Veterans Affairs regulations,

(iii) Furnish, upon request, evidence of compliance with agreement as to usage and investment of Department of Veterans Affairs benefits, and

(iv) Inform the Veterans Services Officer of any change in the beneficiary's estate or any other circumstances that might affect entitlement or the manner in which payments are to be made.

[40 FR 54247, Nov. 21, 1975]

### § 13.59 Court-appointed fiduciary.

(a) *Payment to.* Any Department of Veterans Affairs benefit may be paid to the fiduciary appointed by a State court for a beneficiary who is a minor, or incompetent or under other legal disability adjudged by a court of competent jurisdiction. Formal or informal accountings may be required from such fiduciaries, with or without judicial proceedings.

(b) *Veterans Services Officer's responsibility.* The Veterans Services Officer shall: (1) Determine and recommend to the Regional Counsel the person or legal entity best fitted for appointment as State court fiduciary for the particular beneficiary. Necessary legal action will be taken by the Regional Counsel.

(2) Upon advice from the Regional Counsel that the fiduciary has been appointed, issue appropriate certification thereof so that payment of benefits can be made to such fiduciary.

[40 FR 54247, Nov. 21, 1975]

### § 13.61 Payment to the chief officer of institution.

The Veterans Services Officer may authorize the payment of all or part of the pension, compensation or emergency officers' retirement pay payable in behalf of a veteran rated incompetent by the Department of Veterans Affairs to the chief officer of the institution wherein the veteran is being furnished hospital treatment or institutional, nursing or domiciliary care, for the veteran's use and benefit, when the Veterans Services Officer has determined such payment (called an institutional award) will adequately provide for the needs of the veteran and obvi-

ate need for appointment of another type of fiduciary.

[40 FR 54248, Nov. 21, 1975]

### § 13.62 Payment to bonded officer of Indian reservation.

Any benefits due an incompetent adult or minor Indian, who is a recognized ward of the Government, may be awarded to the superintendent or other bonded officer designated by the Secretary of the Interior to receive funds under 25 U.S.C. 14.

[40 FR 54248, Nov. 21, 1975]

### § 13.63 Payment to custodian-in-fact.

All or any part of a benefit due a minor or incompetent adult, payment of which is suspended or withheld because payment may not be properly made to an existing fiduciary, may be paid temporarily to the person having custody and control of the beneficiary.

[36 FR 19023, Sept. 25, 1971]

### § 13.64 Fiduciary commissions.

Generally, a VA appointed fiduciary is to be encouraged to serve without fee.

(a) *Authority.* The Veterans Services Officer is authorized to determine when a commission is necessary in order to obtain the services of a fiduciary, except that the Veterans Services Officer may not authorize a commission to a fiduciary who receives any other form of remuneration or payment in connection with rendering fiduciary services on behalf of the beneficiary. Necessity is established only if the beneficiary's best interest would be served by the appointment of a qualified professional, or, if a qualified professional is not available, the proposed fiduciary is the only qualified person available and is not willing to serve without a fee.

(b) *Amount; notice to beneficiary.* The Veterans Services Officer shall authorize a fiduciary to whom a commission is payable under paragraph (a) of this section to deduct from the beneficiary's estate a reasonable commission for fiduciary services rendered. The commission for any year may not exceed 4 percent of the monetary benefits paid by VA on behalf of the beneficiary to the fiduciary during that year; a year being the normal 12 month